



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

The
American Historical Review

THE PRIVY COUNCIL OF THE TIME OF RICHARD II.

I N the history of the king's privy council the reign of Richard II. has generally been noted as a time of transition and change. By one writer it is asserted that the council was at that time first recognized as a separate institution,¹ by another that it then underwent a complete reorganization.² While these statements are overdrawn and must be modified, it is true that the council to a great degree then emerged from its former obscurity and came into a position of unusual prominence. There are two reasons why the period may be regarded as especially fruitful for a study of the council: the first, that beginning in the reign of Richard II. we have the *Proceedings and Ordinances of the Privy Council*, a noted publication.³ This collection, while it is not to be understood as including the earliest of council records,⁴ is yet of the highest value for the information it contains. The second reason is that with the minority of the reigning king the council became a virtual board of regency and of necessity played a political part. It is by the controversies which therefore were waged in Parliament, when the organization, powers, and actions of the council were brought into question, that our knowledge of this body is made most complete.⁵

It is well known that at various times previously, most recently in the fiftieth year of Edward III., attempts had been made on the

¹ Dicey, *Privy Council*, p. 25.

² "The privy council, from the reign of Richard II. onwards, although it inherited and amplified the functions of the permanent council of Edward I., differed widely in its organisation." Stubbs, *Constitutional History*, II. 274.

³ Edited by Sir Harris Nicolas, London, 1834-1837.

⁴ This phase of the council's history was the subject of a former article, "Early Records of the King's Council", *AMERICAN HISTORICAL REVIEW*, October, 1905 (X. 1-15).

⁵ The rolls of Parliament, which have heretofore contained little, now furnish an abundance of material concerning the council.

part of Parliament in one way or another to control the king's council, but never before had the efforts been made with so great persistency and effect. Not only under Richard II. but also to some extent during the succeeding reigns of Henry IV. and of Henry VI. was the same policy asserted. So that those years extending from the attempt of the Good Parliament to reform the council of Edward III. in 1376 until 1437, the close of the later king's minority, may be marked as a special period in the history of the council, a period when it was most under Parliamentary pressure. The powers of Parliament were exercised mainly in three ways: (1) by appointments and removals, (2) by regulative legislation, and (3) by judicial prosecutions. It will be seen that its actions taken together reveal a fairly consistent plan or policy as to what the council should be. What this policy was and to what extent it was effective may now be explained.

1. In the first place the councils of these years were frequently said to have been "named", "elected", or "ordained" in Parliament. How was the choice and sanction of Parliament actually made? Usually there was a petition of the commons that a suitable council be chosen and that they should be informed of the names of its members. While the commons might state some of the qualifications of councillors, the actual choice was made by the prelates and lords, or by the king himself. Thus in the fiftieth year of Edward III. the commons petitioned that a new council of lords, prelates, and others be appointed, and the duke of Lancaster afterward read the names before them.¹ The first council of Richard, named July 17, 1377, was chosen by the king and magnates, with the special connivance, we are told, of John of Gaunt, who succeeded in placing therein Lord Latimer and others of his friends.² When Parliament met in October, this council was required to be reconstituted at the instance of the commons, who petitioned that the councillors be elected by the lords in Parliament, and for the special purpose of excluding Lord Latimer passed a resolution that none who had been removed from the council in the time of Edward III. be restored.³ A proposal that the new councillors and officers receive their charges in the presence of the commons was not acted upon, for they were sworn in the presence of the lords.⁴ Again, in the second year at the Parliament of Gloucester the commons

¹ *Rotuli Parliamentorum*, II. 322.

² Thomas Walsingham, *Historia Anglicana* (Rolls Series, 1863-1864), I. 339-340.

³ *Rot. Parl.*, III. 14, 16. Sir Richard de Stafford, however, who was equally disqualified by the resolution, was permitted to remain.

⁴ *Ibid.*, 7, 14.

asked to know the names of those who were to be the great officers and councillors of the king, and it was answered that they should be so informed.¹ But as the Parliament ended abruptly, the names were not read, nor were they placed upon the Parliament roll. For this omission apologies were made to the commons at their next meeting.² The council nevertheless was said to have been "chosen with the assent of the prelates and magnates at the parliament of Gloucester". In other years when Parliamentary councils were chosen, the procedure was not far different except as the king himself took a larger part.

2. As regards the composition of the council, it was the intention of Parliament that it should be a smaller and more definable body than heretofore. In the reign of Edward III. its membership had extended to a large number; it included several honorary members, minor officials, clerks, and even foreigners, while in practice it fell largely into the hands of royal favorites, to the great disgust of the nobles. In combating this tendency the commons supported the nobles, as in the Good Parliament of 1376, when they petitioned that "the council be enforced with the presence of lords, prelates, and others to the number of ten or twelve".³ In the reign of Richard II. the number desired ranged from twelve to fifteen. This number included as *ex officio* members at least three great officers, namely, the chancellor, the treasurer, and the keeper of the privy seal. Although there was once a suggestion that the steward of the royal household be added,⁴ and once we are told that the chief chamberlain was likewise a member,⁵ it was not until the next reign that the five officers were regularly included. As to the personnel, the men now preferred were of Parliamentary rank, with a strong preponderance in favor of the lords. Thus the council named in the fiftieth year of Edward III. included three bishops, three earls, and three lords, besides the three officers.⁶ Generally with a view to balancing the estates, there was a representation also of knights if not of commoners. The first council of Richard was composed of two bishops, two earls, two barons, two bannerets, and four knights,⁷ which was changed in the same year to consist of three bishops, two earls, two bannerets, and two knights, besides the officers.⁸ In the

¹ *Ibid.*, 35.

² *Ibid.*, 55.

³ *Ibid.*, II. 322. In the same year twelve cushions were provided in the council chamber for the lords there to consult. Issue Roll (Pells), 50 Ed. III., Mich., m. 22.

⁴ *Rot. Parl.*, III. 221.

⁵ *Ibid.*, 73.

⁶ *Chronicon Angliae* (Rolls Series, 1874), lxviii.

⁷ *Rot. Parl.*, III. 386; *Calendar of Patent Rolls*, 1 Ric. II., 19; Stubbs, *Constitutional History*, II. 463.

⁸ *Rot. Parl.*, III. 6; Stubbs, *op. cit.*, II. 465.

second year there were similarly chosen two bishops, two earls, two bannerets, and two knights.¹ In the tenth year, which is the next time that a complete list is certain, appointments were made of two archbishops, two bishops, an abbot, two dukes, an earl, a baron, and two knights.² In the Parliamentary councils, therefore, there was a signal elimination of the minor men, such as are in considerable numbers found attached to the council in the previous period.

Another question of membership determined at this time was in regard to the barons of the exchequer, the justices of either bench, and the serjeants-at-law. As to their standing in the council, heretofore it is uncertain whether they are to be counted as *ex officio* members or not. But in the first year of Richard II. a petition of the commons asked that Magna Charta be confirmed, and that if any point be obscure it should be declared "by those who shall be ordained to be of the continual council, with the advice of all the justices and serjeants and other such men, whom they shall see fit to summon".³ Henceforth the relation to the council of these men as advisors or assessors, who were summoned when points of law were in question, is sufficiently clear.⁴

3. It was furthermore the evident plan of Parliament that the councillors should be appointed annually and with constant change. This plan Parliament was persistent enough to carry out continuously for the first three years. In the instance of the first council, which was inaugurated July 17, 1377, and which was reconstituted in the following October, the term of service was until October 30 of the second year, as is shown by the wage accounts of one of the members.⁵ On the election of this council it was resolved that none should be re-eligible for two years.⁶ This requirement was observed, for in the second year at Gloucester an entirely different group was selected. Their tenure was from November 26 of the second year until December 3 of the third year.⁷ Dissatisfied with the work of this body, the commons then demanded that the king dismiss the lords of the council without filling their places.⁸ At all events, for several years the plan of annual elections in Parliament was permitted to lapse. From 1379 until 1386, then, while

¹ *Infra*, in connection with the subject of wages.

² *Calendar of Patent Rolls*, 10 Ric. II., 244. ³ *Rot. Parl.*, III. 15.

⁴ Nicolas, *Proceedings of the Privy Council*, I. 80, 191; III. 151, 313, etc. They might be considered as belonging to the *consilium ordinarium*, but the distinction between the privy council and the ordinary council was not as yet made.

⁵ The accounts of Hugh de Segreve, Accounts Exchequer, K. R. 96/14.

⁶ *Rot. Parl.*, III. 6.

⁷ See wage list, *infra*.

⁸ The commons requested that the king retain for his council only the five great officers, then to be chosen, declaring that at his accession he had no other councillors. *Rot. Parl.*, III. 73.

the attention of Parliament was drawn to other things, the council was left as in other times, with the king as a self-controlling body. Even so early as this the king's preference for the counsel of courtiers rather than of his nobles was unfavorably observed.¹ Again in the tenth year, stirred to action by the abuses of the government, Parliament confirmed the selection of a body "to be of his great and continual council", with a commission to reform and manage the government throughout.² In their petition the commons asked that this council last for a year and until the next ensuing Parliament, but the king consented that it should last for a year only.³ How this council was not permitted fairly to begin its term, but found itself thwarted and set aside by the king is too well known to repeat. In 1388 after the victory of the lords appellant one more attempt was made to name a council in Parliament;⁴ but its career also was interrupted when on May 3, 1389, the king, entering the council chamber, declared himself of age and removed certain of the councillors.⁵ After this no attempt was made again in this reign to appoint a council in Parliament. It was therefore a bold exaggeration when at the time of Richard's deposition in 1399 it was stated to have been a policy that the officers, justices, and others of the king's council should be chosen each year, and that this policy the king had violated.⁶

4. It was another feature of the Parliamentary scheme that the councillors be regularly paid for their services. Whereas previously men of the council had received wages or annuities only in individual cases and as signs of royal favor, it was now the intention that all should be paid, great men as well as small, in proportion to their rank and services. For the payment of councillors there were two methods, the one by yearly salaries, the other by daily wages. It was usual for the greater men to be paid salaries, while men of lower rank received daily wages. The granting of life annuities, which was a characteristic practice of Edward III., was for the present quite suspended. How systematically councillors now were paid is shown by the records of the exchequer. Thus in the first year they received money as follows:

¹ In 1384 one complains of the king consulting, not peers or great men of the realm, but his accustomed councillors, namely, two clerks of the chapel. Walsingham, *Historia Anglicana*, II. 113.

² *Calendar of Patent Rolls*, 10 Ric. II., 244; *Statutes of the Realm*, II. 40; Stubbs, *op. cit.*, II. 499.

³ *Rot. Parl.*, III. 221.

⁴ *Ibid.*, 246.

⁵ Walsingham, *op. cit.*, II. 181.

⁶ "Statutum erat, quod in singulis annis Officiarii Regis, cum Justiciariis, et aliis de Consilio Regis . . . eligantur et nominarentur Domino Regi." *Rot. Parl.*, III. 419.

The bishop of Carlisle ¹	400 m.
The bishop of London ²	200 l.
The earl of March ³	200 l.
Lord Latimer (removed after 3 months) ⁴	40 l.
Lord Cobham (removed after 3 months) ⁵	40 l.
Richard de Stafford, banneret ⁶	200 m.
Roger de Beauchamp, banneret (removed) ⁷	40 m.
Henry Lescrope, knight ⁸	200 m.
Hugh de Seagrave, knight, ⁹ at 6 s. 8 d. a day....	113 l. 6 s. 8 d.

Of the men appointed in the second year at the Parliament of Gloucester, little would be known but for the wage accounts of its members. As their names do not appear upon the Parliament roll, they can be ascertained only from the exchequer statement of their wages. This time the experiment was tried of making all payments by daily wages instead of by salaries, bishops and earls receiving two marks a day, bannerets one mark, and knights one-half mark. The list so far as the accounts show is as follows:¹⁰

	Rate of Wages.	Days of Service.	Amounts Received.
The bishop of Winchester.....	2 m.	276	368 l.
The bishop of Bath.....	2 m.	278	370 l. 13s. 4d.
The earl of Arundel.....	2 m.	155	206 l. 13s. 4d.
The earl of Suffolk.....	2 m.	171	228 l.
Robert de Hales, Prior of the Hospital of St. Johns Jerusalem, banneret.....	1 m.	238	158 l. 13s. 4d.
Roger de Beauchamp, banneret.....	1 m.	277	184 l. 13s. 4d.
Alvredo de Veer, knight.....	$\frac{1}{2}$ m.	113	37 l. 13s. 4d.
Robert Rous, knight.....	$\frac{1}{2}$ m.	80	27 l.

This list is noteworthy as showing the only instance in which the system of wages by the day was applied to all of the council. It may be observed that by fairly regular attendance the men earned more in this way than they would by yearly salaries. This method was soon discarded entirely. That the regular payment of salaries and wages to councillors was distinctly a matter of Parliamentary rather than of royal policy is further shown in the ordinances for the governance of the council which were framed in 1390. It was then enjoined that lords of the council should have reward according to their work and expenses, and that bachelors should

¹ Issue Roll, 1 Ric. II., Pasch., Aug. 12.

⁵ *Ibid.*, m. 24.

² *Ibid.* (Pells), Easter, m. 16.

⁶ *Ibid.*, m. 22.

³ *Ibid.* (Devon), p. 207.

⁷ *Ibid.*, m. 24.

⁴ *Ibid.* (Pells), Mich., m. 24.

⁸ *Ibid.*, Pasch., Aug. 5.

⁹ Accounts Exchequer, K. R., 96/14.

¹⁰ Issue Rolls, 3 Ric. II., *passim*. There may of course have been others whose wages are not recorded.

have reasonable wages for their time.¹ Again, a petition of the commons in 1406 expresses it, that the councillors be "reasonably guerdoned for their labor".² Certain it is from the rolls of the exchequer that the payment of councillors was never so consistently carried out as in the years of the Parliamentary councils.³

5. Still another concern of Parliament was that the councillors approved by it remain unchanged and unsuperseded. This proved to be a difficult matter to control, for once Parliament had adjourned there was nothing to prevent the king's changing or overthrowing the council elected. The commons, indeed, more than once recognized that removals should be made for cause, and in the first year allowed that any vacancies which might occur between Parliaments be filled by the king and council.⁴ At the same time, with some inconsistency, they passed a resolution that the estate and power of the councillors were not repealable except by Parliament.⁵ But with more care in the tenth year, when the noted reform council was appointed, the utmost precautions were taken to prevent its being set aside. It was resolved by the commons that none should be associated with or assigned to the council other than the lords named, and that if in any way the lords were prevented from carrying out their powers, the validity of all grants should cease.⁶ A further clause was put into the statute that no person privily or apertly should give to the king counsel to repeal the power thus given, under penalty.⁷ Yet it is familiar history that all efforts on the part of this council to govern⁸ were thwarted by the king and his "false counsellors".⁹ The status of these false or evil counsellors, as they are called, might be considered doubtful, did it not appear that one of them certainly, if not the others, was formally retained and sworn a member of the council.¹⁰ How they superseded the

¹ Nicolas, *Proceedings of the Privy Council*, I. 18 b.

² *Rot. Parl.*, III. 577.

³ With the subject of councillors' fees and wages in a more general way I have dealt in "Antiquities of the King's Council", *English Historical Review*, January, 1906 (XXI. 1-20).

⁴ *Rot. Parl.*, II. 333; III. 16.

⁵ *Ibid.*, 6, 15.

⁶ *Ibid.*, 221; Close Roll, 10 Ric. II., m. 22.

⁷ *Rot. Parl.*, III. 221; *Statutes of the Realm*, II. 42.

⁸ Evidences of their efforts to govern are seen in a series of articles stated in the manner of a council *agenda* (Nicolas, *Proceedings of the Privy Council*, I. 3), and in allusions to certain letters of the great seal issued by them (*Rot. Parl.*, III. 376, 381).

⁹ Stubbs, *op. cit.*, II. 501.

¹⁰ In the impeachments of the traitors in 1387, it was said, "firent le dit John Blake estre retenu du Councill le Roi . . . Et sur ce il jura de conseiller en mesme le Purpos, et le celer." The fact Blake himself admitted, but claimed that the king had a right so to retain him (*Rot. Parl.*, III. 240).

men named in the Parliamentary commission is declared in the appeals of treason made against them in the following year: that they did not suffer the good councillors to approach or speak with the king except in their presence; that they caused the king to remove himself to distant parts so that the lords appointed could not counsel him; that they even procured an opinion of certain judges that the Parliamentary commission was unlawful.¹ After the impeachments and condemnation of the traitors in 1388, to safeguard the next council it was enacted with severe penalties that no person of whatsoever estate or condition, except those assigned and ordained in the present Parliament, should interfere with the government in any way, unless it be by order of the continual council and with the assent of the king.² The lords of the council were made to swear not to suffer any act of that Parliament to be annulled, reversed, or repealed. Yet this council too was summarily changed on the king's declaring himself of age. In 1399, with these events remembered, it was Richard himself who was accused of refusing to be guided by his duly chosen councillors and of selecting men according to his own pleasure.³

6. The personal conduct of councillors also became at this time a matter of supervision in Parliament. That councillors should not have personal interests in suits before the courts was an old and recurring subject of legislation.⁴ In the first year of Richard II. it was once again declared that no councillor should sustain by maintenance any quarrel in the country or elsewhere, under penalty.⁵ Likewise earlier acts against bribery were renewed with increased stringency. In the fiftieth year of Edward III. it was declared that whoever of the council be found taking a bribe should render the party from whom it was received double and the king six times the amount.⁶ In the first year of Richard II. with great particularity it was ordained that no councillor should receive any gift of escheat, wardship, marriage, rent, or other thing, except by consent of all the council or the greater part of them; and that none should take anything from any party by promise or otherwise, except what was to eat and drink of small value, under the same penalty as before.⁷ That councillors did use the opportunities of their positions for private gain is shown in the several cases of Parliamentary impeachment that were held. In 1376 Lord Latimer, at the time that he was chamberlain and a member of the privy council, was accused

¹ *Rot. Parl.*, III. 232.

² *Ibid.*, 246.

³ *Ibid.*, 399.

⁴ *Statutes of the Realm*, I. 95, 256; *Rot. Parl.*, II. 10, 166.

⁵ *Ibid.*, III. 6; Nicolas, *Proceedings of the Privy Council*, I. 86.

⁶ *Rot. Parl.*, II. 322.

⁷ *Ibid.*, III. 6.

of procuring patents and writs licensing the carriage of merchandise contrary to the ordinance to other ports than to the staple of Calais.¹ He was declared removed from all his offices and from the privy council for all time, although in the next year he was restored.² In the same peculations Richard Lyons was accused of being in collusion with certain of the privy council to their own profit.³ In the impeachment of Lord John de Neville in the same year it was charged that while he was an officer and member of the council he purchased tallies of assignment made by the king to various parties to whom he was debtor, and then received full payment and allowance for them at the exchequer.⁴ In 1380 Ralph de Ferrers, a knight of the council, was held under suspicion, when certain treasonable letters were traced to him revealing secrets of the government.⁵ He was mainperned before Parliament. In 1386 one of the charges against the earl of Suffolk was that while sworn of the council he had accepted or purchased great estates of the king below their value,⁶ an act which would be a direct violation of the councillor's oath. The accusation was not denied, but it was decided by the king and lords that, as his guilt was shared by others of the council, the earl should not be condemned alone. It may be needless to say that the exhibition of private interests and corrupt practices in the council is not peculiar to this time.

7. In the Parliamentary legislation of the period may be found many attempts to regulate the council in its actions, the most comprehensive being the ordinances of 1390 "for the governance of the council". While some of these are of mere temporary significance, others are of value as suggesting modes of council procedure. Of some interest in the latter way are the statements made at various times, that the council meet as early as eight or nine in the morning;⁷ that six or four members be continually in residence and be counted a quorum;⁸ that in cases of disagreement the majority decide;⁹ that business of the king should have precedence of all other matters;¹⁰ that all matters requiring the consent of the king should be reported to him;¹¹ that to carry messages between the council and the king there be two or three authorized reporters;¹² that answer should be given to matters first brought to the council

¹ *Ibid.*, II. 325.

⁵ Walsingham, *op. cit.*, I. 447.

² *Ibid.*, 372.

⁶ *Rot. Parl.*, III. 219.

³ *Ibid.*, 323.

⁷ Nicolas, *Proceedings*, I. 18 a.

⁴ *Ibid.*, 328.

⁸ *Rot. Parl.*, II. 322.

⁹ *Ibid.*, III. 6; *Calendar of Patent Rolls*, 10 Ric. II., 244.

¹⁰ Nicolas, *Proceedings*, I. 18 a.

¹¹ *Rot. Parl.*, II. 322; Nicolas, *Proceedings*, I. 18 a.

¹² *Rot. Parl.*, II. 322; Nicolas, *Proceedings*, I. 85.

before proceeding to other business.¹ Of greater significance in the development of the council were the persistent efforts that were made to define its power against the common law. The tendency of the council to encroach upon the sphere of the common-law courts, to try cases between suitors, to summon parties by writs of privy seal, was ever a subject of grievance and petition. It was already law that no freeman should be compelled to answer for his freehold before the council.² In the first year of Richard II. it was conceded that no suits between parties should be ended before the council.³ To most of the petitions evasive answers were given.⁴ So that all that was accomplished further is contained in one of the ordinances of 1390, that business touching the common law which came before the council should be sent to be determined before the justices. This did not suffice, for the complaints and petitions still vainly continued.⁶

8. It remains to test the effectiveness of the Parliamentary programme by the events of the mature years of Richard after 1389, when his personal government fairly began. For a while in certain ways the council still bears the imprint of the influence of the previous régime. This influence is seen for a time among the older members, for in the thirteenth year as many as eight of them had been in one or another of the previous councils, while four were lords appellant.⁷ The fear of impeachment is expressed when the council refused and could not be persuaded to accede to a request of the king, lest in the first Parliament it should be imputed to them that they had burdened the kingdom with a larger sum of money than was necessary or honest.⁸ Their responsibility to Parliament was again acknowledged when the chancellor, treasurer, and councillors offered to resign their places, that charges might be brought against them.⁹ Again, the ordinances of 1390 for the governance of the council, whether they were passed by Parliament or not, were evidently forced upon the king by the Parliamentary party. The hand of the Gloucester faction in particular is seen in the requirement that no gift or grant to the decrease of the king's profit be made without the advice of the council and the consent in particular of the dukes of Lancaster, York, and Gloucester and the chancellor, or two of them.¹⁰

On the other hand, a quite contrary influence in the manage-

¹ Nicolas, *Proceedings*, I. 18 b.

² *Rot. Parl.*, II. 228; *Statutes of the Realm*, I. 321.

³ *Ibid.*, III. 21.

⁴ *Ibid.*, 44, 267.

⁵ Nicolas, *Proceedings*, I. 18 b.

⁶ *Rot. Parl.*, III. 323, 446.

⁷ Nicolas, *Proceedings*, I., *passim*.

⁸ *Ibid.*, 12 c, 17.

⁹ *Rot. Parl.*, III. 258.

¹⁰ Nicolas, *Proceedings*, I. 18 b.

ment of the council is seen in the policy of the king, which tended to gain ground. This royal policy shows a reversion in some ways to the usages of Edward III. which Parliament had sought to counteract. For one thing, to offset the power of the older nobles the king added many new men, so that the membership, which had been limited to twelve or fifteen, immediately became larger. At one meeting of the thirteenth year there were twenty-one present,¹ while during the year as many as thirty-four councillors may be counted. Of these a larger proportion than before were bannerets and knights, whose usefulness was plainly enhanced. On one occasion a series of ordinances was passed by the king in the presence of a council of thirteen, seven of whom were of knightly rank.² At another time may be noted the presence of a clerk of the rolls, and again that of a baron of the exchequer. It was upon these men of minor estate that the royal policy in hostility to the nobles came more and more to depend. In the matter of salaries and wages, in distinction from the policy of Parliament and in contravention of the ordinances of 1390, which required the equitable payment of all members, stands the king's policy of making payments only in special cases, and with greater generosity to the men of lower rank. To some of these, reviving a practice of his predecessor, he even granted life annuities. The character of the king's council in this phase can best be shown by a few personal instances.

Edward Dalyngrugg was a knight connected with the council from the thirteenth to the sixteenth year. For his attendance he was granted a life annuity of one hundred marks,³ which he received in addition to wages of ten shillings a day.⁴ How assiduous a councillor he was is shown by his accounts, which state that from January 8 of the fifteenth year to February 21 of the sixteenth year he served 207 days. Upon the council records no name appears more frequently than his. For his good service in continually attending the council, as it was said, he received also a grant of two tuns of red Gascon wine each year.⁵

Richard Stury, a knight of the king's chamber, was one of the councillors "familiar with the king" who had been removed by the Good Parliament of Edward III., and was reinstated by John of Gaunt.⁶ He was reputed to be a patron of the Lollards. In the council of Richard II. from the fourteenth to the eighteenth year he received wages of ten shillings a day.⁷ His faithfulness

¹ *Ibid.*, 17.

² *Ibid.*, 6.

³ *Ibid.*, 8.

⁴ Accounts Exchequer, K. R. 96/1.

⁵ *Calendar of Patent Rolls*, 15 Ric. II., 37.

⁶ "*Chronicon Angliae*", *Archaeologia*, XXII. 226.

⁷ Issue Rolls, 14—18 Ric. II.

at the council is shown by his receipts at the exchequer,¹ and the king's favor by the grant of Gascon wine which he received as well as Dalyngrugg.² More frequently than any other persons are these two found employed on royal commissions.³

Lewis de Clifford, another knight of the king's chamber, formerly a mainpernor of Lord Latimer, and patron of the Lollards, was only less active than the former in Richard's council from the thirteenth to the fifteenth year. For this service he received an annuity of one hundred marks.⁴

The presence of a foreigner occurs in the case of Master Peregrino de Fano, a doctor of laws from Aquitaine, who in the seventeenth year came to England to attend the council and to serve as an envoy in treating of peace between the king of England and the king of France. For this he received a fee of forty pounds.⁵

It was in the last two years, during what is called the king's career of absolutism, that government by courtiers in defiance of the nobles and Parliamentary party was carried to the fullest extent. It is only fair to observe that some of the so-called favorites were men of ability and faithfulness. Among the royalist councillors of this time were the dukes of Aumâle, Norfolk, and Exeter, and the earl of Wiltshire. Of the greater men John Gilbert, bishop of St. David's, was the only one receiving a salary. He had been in the council from the thirteenth year and was at one time treasurer.⁶ In the twenty-first year at twenty shillings a day he served 164 days,⁷ and in the twenty-second year, which was the last, 128 days.⁸ Richard de Waldegrave was another king's knight, once speaker of the House of Commons, who served the council from the seventeenth year. Faithful to the last, he received one hundred marks each year.⁹ Lawrence Drew, a king's esquire, had been retained of the council in the seventeenth year with a life annuity of one hundred marks.¹⁰ In the eighteenth year he acted as a "reporter", being entrusted by the council with money to distribute in the expenses of the war in Ireland,¹¹ and returning with messages from the king to the council.¹² In the twenty-first year he

¹ In the sixteenth year he is recorded as attending the council at London for 159 consecutive days (Issue Roll (Pells), 16 Ric. II., Mich., m. 18), and in the eighteenth year similarly for seven months (*ibid.*, 18 Ric. II., Easter, m. 22).

² *Calendar of Patent Rolls*, 15 Ric. II., 37.

³ *Ibid.*, *passim*.

⁴ Issue Roll (Pells), 14 Ric. II., Mich., m. 14; 15 Ric. II., m. 23.

⁵ *Ibid.*, 17 Ric. II., Mich., Dec. 3.

⁶ Stubbs, *op. cit.*, II. 508.

⁷ Issue Roll (Pells), 21 Ric. II., Mich., m. 16.

⁸ *Ibid.*, 22 Ric. II., Easter, m. 11.

⁹ *Calendar of Patent Rolls*, 17 Ric. II., 415; Issue Rolls, 17-22 Ric. II.

¹⁰ *Calendar of Patent Rolls*, 17 Ric. II., 391.

¹¹ Issue Roll (Pells), 18 Ric. II., Easter, m. 14.

¹² Nicolas, *Proceedings*, I. 57.

was declared a member of the council for cases at law only.¹ He served to the end of the reign.²

Master Ralph de Selby, a baron of the exchequer and doctor of laws, besides his salary of forty marks for his office in the exchequer, in the seventeenth year was granted a fee of fifty marks a year.³ This fee, which was once declared renewed,⁴ he received through the twenty-second year.⁵ Other knights of the council were John Bussy, Henry Greene, William Bagot, and John Russel. It was once declared that for the arrangement of certain fines none should be present in the council but the chancellor, the treasurer, the keeper of the privy seal, Bussy, Greene, and Bagot.⁶ For promoting the king's schemes in the second Parliament of 1397 these men have been given a special notoriety.⁷ They appear among the councillors trying cases in chancery, and were in attendance finally when Richard's council came to its tragic close. On the invasion of the duke of Lancaster in 1399, the duke of York, then guardian of the realm, hastily called together the chancellor (the bishop of Chichester), the treasurer (William le Scrope), the earl of Wiltshire, and the knights Bussy, Bagot, Greene, and Russel. Fleeing from their enemies, Scrope, Greene, and Bussy were forthwith captured at Bristol and hanged.⁸ Bagot lived to be apprehended in the next Parliament as an evil counsellor.⁹ The accusation therefore made against Richard on his deposition, that he had selected for his council according to his pleasure favorites and others who would not resist him,¹⁰ was certainly well founded.

One other cause of offense was the proneness of the council to supersede the courts of common law, removing cases from their jurisdiction, trying cases between suitors, and issuing summary writs of privy seal. The records of the council contain a few instances of such procedure.¹¹ That there were many cases of the kind is suggested in one of the first petitions of the commons in the next reign, when they asked that all purely personal actions, to which the king was not a party, be tried by the common law

¹ *Ibid.*, 76.

² Issue Roll (Pells), 22 Ric. II., Easter, m. 12.

³ *Calendar of Patent Rolls*, 17 Ric. II., 328.

⁴ Nicolas, *Proceedings*, I. 75.

⁵ Issue Roll (Pells), 22 Ric. II., Easter, m. 12.

⁶ Nicolas, *Proceedings*, I. 76.

⁷ Stubbs, *op. cit.*, II. 519.

⁸ Walsingham, *op. cit.*, II. 232; "Annales Ricardi Secundi", in *Trokelowe*, 243.

⁹ "Annales Henrici Quarti" (*ibid.*), 303.

¹⁰ *Rot. Parl.*, III. 399.

¹¹ Nicolas, *Proceedings*, I. 76-78; *Select Cases in Chancery* (Selden Society), No. 34.

and not before the council, and that all actions of the kind before the council of Richard which were still pending be annulled and adjourned to the common law.¹

Of the history of the council during the reigns of Henry IV. and of Henry VI., when again Parliamentary pressure was brought to bear, there is no need at present to speak. The conclusions now to be drawn would not be much affected thereby. The first part of the reign of Richard II. shows, to a fuller extent than at any time before or since, the aims of Parliament to elect the council and to direct its organization. Even then the will of Parliament was only intermittently and with no consistency asserted. Moreover the council was already too mature and well-established an institution to be readily changed by legislative enactments. In the king's personal government during the later years of the reign we see the whole Parliamentary policy brought to naught. That the council was normally within the sphere of the royal prerogative and depended not upon statutes for its power or usefulness was destined again to be proved. Yet there are results which may be attributed to the influence direct and indirect of lords and commons. The privy council was never again so large or so heterogeneous a body as heretofore; its members were more generally of respectable estate; the councillors felt something of a responsibility for their actions; while as a governing body it was drawn more into the light and its actions were better understood and noted. Of these results the latter has afforded the material from which in the main the present article has been constructed.

JAMES F. BALDWIN.

¹ *Rot. Parl.*, III. 446.